

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GARRY A. BORZYCH,

Plaintiff,

ORDER

09-cv-21-bbc

v.

MATTHEW J. FRANK,  
RICHARD RAEMISCH,  
JOHN BETT, TIMOTHY LUNDQUIST,  
LORI SIMON, THERESA MURPHY  
and JOHN RAY,

Defendants.

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On April 30, 2009, I entered an order giving plaintiff until May 14, 2009, in which to advise the court in writing whether he would pursue his claims against deceased defendant John Ray. In addition, I told plaintiff that even though Federal Rule of Civil Procedure 25(a)(1) allows the parties 90 days to move for substitution, plaintiff should be able to respond within two weeks indicating his intention with regard to defendant Ray. Plaintiff has not responded to the April 30 order. Therefore, defendant Ray will be dismissed from this action.

Because all of the defendants except defendant Ray have filed an answer to the complaint, the court will schedule a preliminary pretrial conference in this case so that a trial date and deadlines for moving this case to resolution may be set.

ORDER

IT IS ORDERED that defendant John Ray is DISMISSED from this action. The clerk of court is requested to schedule a preliminary pretrial conference to be held by telephone before Magistrate Judge Stephen Crocker.

Entered this 28<sup>th</sup> day of May, 2009.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge